

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

ZELMA M. LOEB-DEFEVER and LOEB
ARCHITECTS, LLC,

Plaintiffs,

v.

STRATEGIC CONSTRUCTION, LTD.
d/b/a FCI MULTI-FAMILY, ET AL.,

Defendants.

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C.A. NO. 4:19-cv-00578

DECLARATION OF ANTONIO PADUA UNDER 28 U.S.C. § 1746

1. My name is Antonio “Tony” Padua. I am a manager of Mako, LLC d/b/a Padua Realty Company. I am making this Declaration in support of Defendants’ Motion to Dismiss for Improper Venue Under Fed. R. Civ. P. 12(b)(3) or, in the Alternative, to Transfer under 28 U.S.C. § 1406(a) or § 1404(a). I was personally involved in all aspects of the development of Woodhaven Village, the real estate project located at 2275 Riverway Drive, Conroe, Texas 77304, that is the subject of the Complaint in this case. I have personal knowledge of the facts set forth in this Declaration, and those facts are true and correct.

2. The “Padua Defendants” refers to (1) myself, (2) Francisco Padua, (3) Alejandro “Alex” Padua, (4) Mako, LLC d/b/a Padua Realty Company, (5) Padua Investments, Ltd., (6) Bratten Inmobilia, LLC, (7) Inmobilia 2000, LLC, (8) Luisfina Corporation, (9) Woodhaven Inmobilia, Ltd., (10) Cottages at Woodhaven Village, Ltd., (11) Texas Senior Living Group, LLC, (12) Texas Senior Living Manager, LLC, and (13) Texas Senior Living Operator, LLC.

3. I obtained the map of the counties encompassed within the Eastern District of Texas attached to my Declaration as Exhibit A from the Court's web site <http://www.txed.uscourts.gov/court-locator>.

4. Based on this map, none of the individual Padua Defendants—Francisco, Alex, and I—reside or have ever resided in the Eastern District of Texas. Francisco Padua, Alex Padua, and I are individual residents of Houston, Harris County, Texas. The Complaint contains no factual allegations about us other than that we are principals of Mako, LLC d/b/a Padua Realty Company, and that Francisco Padua is a managing member, general partner, and/or registered agent for certain of the Padua Defendants. None of us have ever maintained a domicile in the Eastern District. None of us regularly travel there, nor conduct business there. In fact, none of us have ever conducted business within the Eastern District.

5. Based on the map, attached hereto as Exhibit A, and as set forth in more detail below, none of the entity Padua Defendants—Mako LLC; Woodhaven Inmobilia, Ltd; Bratten Inmobilia 2000, LLC; Inmobilia 2000, LLC; Padua Investments, Ltd.; Luisfina Corporation; Texas Senior Living Operator, LLC; Texas Senior Living Manager, LLC; Texas Senior Living Group, LLC; and Cottages at Woodhaven Village, Ltd.—reside or have ever resided in the Eastern District of Texas. None of the entity Padua Defendants have ever maintained a principal place of business in the Eastern District. None of them have ever owned or leased real or personal property located in the Eastern District or maintained a bank account at any bank located within the Eastern District. None of the entity Padua Defendants have ever distributed any advertising or marketing materials within the Eastern District nor solicited or conducted business within the Eastern District.

6. Mako, LLC (hereafter, “Padua Realty”) is a Texas limited liability company with its sole office at 5599 San Felipe Suite 911, Houston, Texas 77056. In the Complaint, Plaintiffs, Zelma M. Loeb-Defever and Loeb Architects, LLC (collectively “Loeb”), allege that Padua Realty provided Loeb’s design to Defendant Ted Trout Architects & Associates, Ltd. (incorrectly named Ted Trout Architects, Ltd. in the Complaint) (“Trout”) and breached contracts with Loeb. Padua Realty does not maintain and has never maintained a place of business in the Eastern District of Texas. Padua Realty has never conducted business there.

7. On October 1, 2010, Loeb traveled to Padua Realty’s office in Houston, Texas to market Loeb’s architectural services for the Woodhaven Village project. Padua Realty did not execute any contracts with Loeb in the Eastern District of Texas, nor did Padua Realty perform any acts or omissions relating to any contract with Loeb while present in the Eastern District. All subsequent meetings involving Padua Realty and Loeb were conducted within the Houston metropolitan statistical area.

8. Woodhaven Inmobilia, Ltd. is a Texas limited partnership with its sole business address at 5599 San Felipe Suite 911, Houston, Texas 77056. It is alleged to be a member of Texas Senior Living Operator, LLC (discussed at ¶ 13) and Cottages at Woodhaven Village, Ltd. (discussed at ¶ 15), and to have owned the site located in Conroe, Texas on which Woodhaven Village was constructed. Woodhaven Inmobilia, Ltd. was organized solely for the purpose of developing the real estate located in Conroe, Texas, which it currently owns. Woodhaven Inmobilia, Ltd. does not maintain a place of business in the Eastern District and does not conduct business there. It has never owned, leased, rented, or developed any property located within the Eastern District.

9. Bratten Inmobilia 2000, LLC (incorrectly named Bratten Inmobilia, LLC in the Complaint) is a Texas limited liability company with its sole business address at 5599 San Felipe Suite 911, Houston, Texas 77056. The Complaint contains no factual allegations about Bratten Inmobilia 2000, LLC other than that it is a general partner of Woodhaven Inmobilia, Ltd. Bratten Inmobilia 2000, LLC does not maintain a place of business in the Eastern District of Texas and does not conduct business there. It has never owned, leased, rented, or developed any property located within the Eastern District.

10. Inmobilia 2000, LLC is a Delaware limited liability company with its sole business address at 5599 San Felipe Suite 911, Houston, Texas 77056. The Complaint contains no factual allegations about Inmobilia 2000, LLC other than that it is a general partner of Woodhaven Inmobilia, Ltd.—the sole owner of Bratten Inmobilia 2000, LLC. Inmobilia 2000, LLC does not maintain a place of business in the Eastern District of Texas and does not conduct business there. It has never owned, owned, leased, rented, or developed any property located within the Eastern District.

11. Padua Investments, Ltd. is a Texas limited partnership with its sole business address at 5599 San Felipe Suite 911, Houston, Texas 77056. The Complaint contains no factual allegations about Padua Investments, Ltd. other than it is a 90% owner of Woodhaven Inmobilia, Ltd. and a member of Texas Senior Living Operator, LLC. Padua Investments, Ltd. does not maintain a place of business in the Eastern District of Texas and does not conduct business there. It has never owned, leased, rented, or developed any property located within the Eastern District.

12. Luisfina Corporation is a California corporation with its sole business address at 5599 San Felipe Suite 911, Houston, Texas 77056. The Complaint contains no factual allegations about Luisfina Corporation other than it owns an interest in Inmobilia 2000, LLC.

Luisfina Corporation does not maintain a place of business in the Eastern District of Texas and does not conduct business there. It has never owned, leased, rented, or developed any property located within the Eastern District.

13. Texas Senior Living Operator, LLC is a Texas limited liability company with its sole business address at 5599 San Felipe Suite 911, Houston, Texas 77056. Texas Senior Living Operator, LLC is alleged in the Complaint to have infringed Loeb's copyright in various ways; however, there is no allegation in the Complaint that any of these alleged acts of infringement occurred in the Eastern District of Texas. Texas Senior Living Operator, LLC does not maintain a place of business in the Eastern District and does not conduct business there. It has never owned, leased, rented, or developed any property located within the Eastern District.

14. Texas Senior Living Manager, LLC is a Texas limited liability company with its sole business address at 5599 San Felipe Suite 911, Houston, Texas 77056. Texas Senior Living Group, LLC is a Delaware limited liability company. The Complaint contains no factual allegations about Texas Senior Living Manager, LLC or Texas Senior Living Group, LLC, other than that they are managing members of Texas Senior Living Operator, LLC, and that Texas Senior Living Manager, LLC is the general partner of Cottages at Woodhaven Village, Ltd. Neither Texas Senior Living Manager, LLC nor Texas Senior Living Group, LLC maintains a place of business in the Eastern District of Texas and do not conduct business there. They have never owned, leased, rented, or developed any property located within the Eastern District.

15. Cottages at Woodhaven Village, Ltd. is a terminated Texas limited partnership. Its sole former business address was 5599 San Felipe Suite 911, Houston, Texas 77056. Cottages at Woodhaven Village, Ltd. is alleged to have infringed Loeb's copyright by constructing buildings on the site located in Conroe, Texas based on Trout's allegedly infringing

plans and leasing cottages at Woodhaven Village. Cottages at Woodhaven Village, Ltd. has never maintained a place of business in the Eastern District of Texas and does not conduct business there. It has never owned, leased, rented, or developed any property located within the Eastern District.

16. In sum, none of the individual Padua Defendants reside or have ever resided in the Eastern District of Texas. None of the entity Padua Defendants maintain or have ever maintained a place of business in the Eastern District. None of the Padua Defendants own or lease or have ever owned or leased real or personal property in the Eastern District. None of the Padua Defendants have ever had any employees who work or reside in the Eastern District. None of the Padua Defendants maintain or have ever maintained a bank account in the Eastern District. None of the Padua Defendants solicit, conduct, or have ever solicited or conducted business in the Eastern District. None of the Padua Defendants have ever distributed any advertising or marketing materials in the Eastern District or targeted any advertising or marketing materials to residents of the Eastern District.

17. None of the Padua Defendants' activity relating to the Woodhaven Village project took place in the Eastern District of Texas. The Complaint does not allege that any of the underlying acts or omissions occurred in the Eastern District. I am not aware of any person who resides in the Eastern District who has any knowledge regarding the allegations made in the Complaint.

18. The Woodhaven Village project is located in Conroe, Texas. All paper and electronic documents potentially relevant to this case that are in the possession of the Padua Defendants are located in their offices at 5599 San Felipe Suite 911, Houston, Texas 77056. All

witnesses associated with the Padua Defendants are located in the Houston metropolitan area, including Houston, the Woodlands, Sugarland, and/or Conroe, Texas,

19. Numerous persons who are not parties to this action and who have knowledge of relevant facts and may need to testify at trial do not reside, are not employed, and do not conduct business in person within 100 miles of Sherman, Texas.

20. For example, an important life-safety code consultant for the Woodhaven Village project was OSR Construction Services, LLC, a Texas limited liability company whose sole office is located in Houston, Texas. OSR Construction Services, LLC's Project Manager for the Woodhaven Village project, Bernard Adeshina, is also a resident of Houston, Texas

21. The Project Civil Engineer for the Woodhaven Village project, Bleyl & Associates, maintains its principal place of business in Conroe, Texas. It does not have any offices or employees in the Eastern District of Texas. Moreover, the two engineers assigned to the Woodhaven Village project from Bleyl & Associates, Mike Kelly and John Bleyl, are both residents of Conroe, Texas.

22. Sean Ratterree, a former Project Manager who, worked as an independent contractor during the development of Woodhaven Village, works and resides in Houston, Texas.

23. Angelica Batac is a former employee of Trout who provided architectural services for the Woodhaven Village project. I understand that her current work address is in Katy, Texas and her residence is within the greater Houston area.

24. Jon Pollock is another key witness with knowledge of relevant facts who resides in Houston, Texas.

25. Governmental personnel at the City of Conroe may also be key witnesses or be in possession of relevant documents, including, but not limited to the City Engineer, Development Coordinator, and Fire Marshal.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on September 19, 2019.



ANTONIO PADUA